

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

BARBARA TEMECK,

Defendant.

CASE NO.: 1:17-cr-00050

JUDGE MICHAEL R. BARRETT

ORDER

This matter is before the Court on Defendant's Motion to Dismiss Indictment, or in the Alternative, for Discovery (Doc. 14); the United States' Response (Doc. 19); Defendant's Reply (Doc. 21) and the Defendant's Supplement Submission (Doc. 30) following the motion hearing conducted October 27, 2017.

The government contends, and there is no evidence to the contrary, that the Department of Veterans Affairs Office of Inspector General ("VA-OIG") learned of the allegations regarding defendant's prescription practice through a media outlet story (Doc. 19, PAGEID# 581, ¶1). The following day, VA-OIG agents conducted an interview and thereafter opened a case file. After interviewing the defendant, VA-OIG presented the case to the United States Attorney's Office for the Southern District of Ohio. All of this happened within a few days. There is no evidence of improper or untoward actions by either VA-OIG or the United States Attorney's Office. Other than vague, unsupported references to possible motivation, the defendant sets forth no factual basis warranting the granting of her motion.

Based on the foregoing, this Court finds no basis for granting Defendant's Motion for Dismissal of the Indictment on the grounds that the instant prosecution is unconstitutionally

selective. Defendant failed to provide sufficient evidence of the Government's alleged discriminatory intent and alleged discriminatory effect in Defendant's Federal prosecution. *United States v. Armstrong*, 517 U.S. 456, 116 S.Ct 1480. Therefore, Defendant's Motion to Dismiss Indictment, or in the Alternative, for Discovery (Doc. 14) is **OVERRULED**.

IT IS SO ORDERED.

____s/*Michael R. Barrett*_____
Michael R. Barrett
United States District Judge